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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0468-IWD-E TCEQ ID: RN102707049 CASE NO.: 35563
RESPONDENT NAME: Oxbow Carbon & Minerals LLC

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Oxbow Marine Terminal Texas City, Loop 197 South, approximately 500 feet west of the Dock 40-41 Complex, Texas City, Galveston County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on August 4, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Ms. Trina Grieco, Enforcement Division, Enforcement Team 5, MC R-13, (210) 403-4006; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Jimmy Roachell, Facility Manager, Oxbow Carbon & Minerals LLC, Post Office Box 100, Texas City, Texas 77592-0100 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Record Review Relating to this Case: February 7, 2008</p> <p>Date of NOE Relating to this Case: February 29, 2008 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>1) Failure to comply with the permitted effluent limitations for total suspended solids [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002670000, Effluent Limitations and Monitoring Requirements No.1 and TEX. WATER CODE § 26.121(a)].</p> <p>2) Failure to submit daily average flow at Outfall 001 on the discharge monitoring reports ("DMRs") for the months of November 2006 through April 2007 and June 2007 through October 31, 2007 [30 TEX. ADMIN. CODE § 305.125(17), TPDES Permit No. WQ0002670000, Monitoring and Reporting Requirements No. 1].</p>	<p>Total Assessed: \$4,030</p> <p>Total Deferred: \$806 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$1,612</p> <p>Total Paid to General Revenue: \$1,612</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a) By November 30, 2007, in order to reduce the ability of solids to reach the ponds and outfall, turbidity screens were replaced at the ponds and additional weirs were added to the ditches;</p> <p>b) By December 17, 2007, began using Commission approved DMR forms, which included a parameter for flow daily averages, and submitted revised DMRs for the months in violation; and</p> <p>c) Submitted DMRs for November and December 2007 and January 2008, which demonstrated that effluent parameters were within permitted limits.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p>

Additional ID No(s): WQ0002670000

Attachment A
Docket Number: 2008-0468-IWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Oxbow Carbon & Minerals LLC
Payable Penalty Amount:	Three Thousand Two Hundred Twenty-Four Dollars (\$3,224)
SEP Amount:	One Thousand Six Hundred Twelve Dollars (\$1,612)
Type of SEP:	Pre-approved
Third-Party Recipient:	Gulf Coast Waste Disposal Authority ("GCWDA")-River, Lakes, Bays 'N Bayous Trash Bash
Location of SEP:	Galveston County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to Gulf Coast Waste Disposal Authority ("GCWDA") for its River, Lakes, Bays 'N Bayous Trash Bash in Galveston County. The contribution will be used in accordance with the Supplemental Environmental Project Agreement between the GCWDA and the Texas Commission on Environmental Quality. Specifically, the contribution will be used to pay for materials, supplies, disposal costs, and transportation costs directly associated with the cleanup of trash and pollutants from the Galveston Bay and the San Jacinto watershed.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by removing pollutants from the Galveston Bay and waterways in the San Jacinto watershed, which will improve water quality. The project will also help educate volunteers about non-point source pollution and what the volunteers can do to help keep the environment clean.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Lori Gernhardt
Gulf Coast Waste Disposal Authority
910 Bay Area Boulevard
Houston, Texas 77058

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

TCEQ

DATES	Assigned	10-Mar-2008	Screening	18-Mar-2008	EPA Due	
	PCW	18-Mar-2008				

RESPONDENT/FACILITY INFORMATION

Respondent	Oxbow Carbon & Minerals LLC		
Reg. Ent. Ref. No.	RN102707049		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	35563	No. of Violations	2	
Docket No.	2008-0468-IWD-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Trina Grieco	
Multi-Media		EC's Team	Enforcement Team 5	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$3,100

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 55% Enhancement Subtotals 2, 3, & 7 \$1,705

Notes: Penalty enhancement due to seven previous NOV's for same or similar violations (of which five were self-reported effluent violations) and one agreed order containing a denial of liability.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 25% Reduction Subtotal 5 \$775

	Before NOV	NOV to EDP RP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes: The Respondent completed corrective actions by December 17, 2007.

Total EB Amounts \$673 0% Enhancement* Subtotal 6 \$0
Approx. Cost of Compliance \$10,550 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$4,030

OTHER FACTORS AS JUSTICE MAY REQUIRE 0% Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$4,030

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$4,030

DEFERRAL

20%

Reduction

Adjustment -\$806

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$3,224

Screening Date 18-Mar-2008

Docket No. 2008-0468-IWD-E

PCW

Respondent Oxbow Carbon & Minerals LLC

Policy Revision 2 (September 2002)

Case ID No. 35563

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN102707049

Media [Statute] Water Quality

Enf. Coordinator Trina Grieco

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	7	35%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 55%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Penalty enhancement due to seven previous NOVs for same or similar violations (of which five were self-reported effluent violations) and one agreed order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 55%

Screening Date 18-Mar-2008	Docket No. 2008-0468-IWD-E	PCW
Respondent Oxbow Carbon & Minerals LLC	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 35563	<small>PCW Revision February 29, 2008</small>	
Reg. Ent. Reference No. RN102707049		
Media [Statute] Water Quality		
Enf. Coordinator Trina Grieco		
Violation Number 1		
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002670000, Effluent Limitations and Monitoring Requirements No.1 and Tex. Water Code § 26.121(a)	
Violation Description	Failed to comply with the permitted effluent limitations (see attached table).	
Base Penalty		\$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual			x	Percent 10%
	Potential				

>> Programmatic Matrix

		Major	Moderate	Minor	
	Falsification				
					Percent 0%

Matrix Notes

Total suspended solids were evaluated to determine whether the discharged amounts of pollutants exceeded levels protective of human health and the environment. As a result of these discharges, human health or the environment has been exposed to an insignificant amount of pollutants which did not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events	2	92	Number of violation days
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<small>mark only one with an x</small>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td></td></tr> <tr><td style="text-align: center;">monthly</td><td></td></tr> <tr><td style="text-align: center;">quarterly</td><td style="text-align: center;">x</td></tr> <tr><td style="text-align: center;">semiannual</td><td></td></tr> <tr><td style="text-align: center;">annual</td><td></td></tr> <tr><td style="text-align: center;">single event</td><td></td></tr> </table>	daily		monthly		quarterly	x	semiannual		annual		single event		
daily														
monthly														
quarterly	x													
semiannual														
annual														
single event														

Violation Base Penalty \$2,000

Two quarterly events are recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$641	Violation Final Penalty Total \$2,600
This violation Final Assessed Penalty (adjusted for limits) \$2,600	

Economic Benefit Worksheet

Respondent: Oxbow Carbon & Minerals LLC
 Case ID No. 35563
 Reg. Ent. Reference No. RN102707049
 Media: Water Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$10,000	31-Dec-2006	30-Nov-2007	0.9	\$31	\$610	\$641
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to replace turbidity screens at the ponds and add weirs to the ditches. Date required is the end of the first month of noncompliance. Final date is the date corrective actions were completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$641

Screening Date 18-Mar-2008	Docket No. 2008-0468-IWD-E	PCW
Respondent Oxbow Carbon & Minerals LLC	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 35563	<small>PCW Revision February 29, 2008</small>	
Reg. Ent. Reference No. RN102707049		
Media [Statute] Water Quality		
Enf. Coordinator Trina Grieco		
Violation Number 2		
Rule Cite(s)	30 Tex. Admin. Code § 305.125(17), TPDES Permit No. WQ0002670000, Monitoring and Reporting Requirements No. 1	
Violation Description	Failed to submit daily average flow at Outfall 001 on the discharge monitoring reports ("DMRs") for the months of November 2006 through April 2007 and June 2007 through October 31, 2007.	
Base Penalty		\$10,000

>> Environmental, Property and Human Health Matrix

OR		Harm				
	Release	Major	Moderate	Minor		
	Actual					
	Potential				Percent	0%

>> Programmatic Matrix

		Falsification	Major	Moderate	Minor	
				x		
					Percent	1%

Matrix Notes	At least 70% of the permit requirements were met.
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Adjustment	\$9,900
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Adjustment	\$100
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Violation Events

Number of Violation Events	11	Number of violation days	362
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<small>mark only one with an x</small>	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty	\$1,100
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Eleven single events (one per report) are recommended.
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Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount	Violation Final Penalty Total
\$32	\$1,430
This violation Final Assessed Penalty (adjusted for limits)	
\$1,430	

Economic Benefit Worksheet

Respondent Oxbow Carbon & Minerals LLC
Case ID No. 35563
Reg. Ent. Reference No. RN102707049
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$250	20-Dec-2006	17-Dec-2007	1.0	\$1	\$17	\$17
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$300	20-Dec-2006	17-Dec-2007	1.0	\$15	n/a	\$15

Notes for DELAYED costs

Estimated cost for switching to and using Commission approved DMRs for reporting the flow daily average (\$250) and to revise the DMR reports for the months of November 2006 to October 2007 (\$300). Date required is the date the first DMR was due to be reported with the flow daily average parameter. Final date is the date corrective actions were completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$550

TOTAL \$32

EFFLUENT VIOLATION TABLE						
Oxbow Carbon & Minerals LLC						
TPDES Permit No. WQ0002670000						
Docket No. 2008-0468-IWD-E						
Permitted Effluent Limits	Monitoring Period End Date					
	12/31/06	9/30/07	10/31/07			
TSS daily avg. conc. Limit = 60 mg/L	64 mg/L	78 mg/L	102 mg/L			
TSS daily max. conc. Limit = 90 mg/L	100 mg/L	188 mg/L	140 mg/L			

conc. = concentration

max. = maximum

mg/L = milligrams per liter

TSS = total suspended solids

avg. = average

Compliance History

Customer/Respondent/Owner-Operator:	CN602617375	Oxbow Carbon & Minerals LLC	Classification: AVERAGE	Rating: 6.27
Regulated Entity:	RN102707049	OXBOW MARINE TERMINAL TEXAS CITY	Classification: AVERAGE	Site Rating: 1.13
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION WASTEWATER PERMIT WASTEWATER PERMIT WASTEWATER PERMIT WASTEWATER EPA ID AIR NEW SOURCE PERMITS PERMIT AIR NEW SOURCE PERMITS ACCOUNT NUMBER AIR NEW SOURCE PERMITS PERMIT AIR NEW SOURCE PERMITS REGISTRATION AIR NEW SOURCE PERMITS AFS NUM STORMWATER PERMIT			66457 WQ0002670000 TPDES0094129 TX0094129 TX0094129 9349A GB0146N 50593 78709 4816700073 TXR05L833
Location:	Loop 197 South, approximately 500 feet west of the Dock 40-41 Complex in the City of Texas City		Rating Date: September 01 07	Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: March 12, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 12, 2003 to March 12, 2008

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Trina Grieco Phone: (210) 403-4006

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Aimcor, Inc.
Oxbow Carbon & Minerals, LLC
4. If Yes, who was/were the prior owner(s)? Applied Industrial Materials Corporation
5. When did the change(s) in ownership occur? 12/3/2003
03/30/2006

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 07/05/2004 ADMINORDER 2003-1363-MWD-E
 Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT
 Description: Failed to maintain permitted limits of 90 milligrams per liter (mg/l) for total suspended solids (TSS) for the months of March and April 2002.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- | | | |
|---|------------|----------|
| 1 | 05/05/2003 | (249712) |
| 2 | 12/10/2003 | (319586) |
| 3 | 12/10/2003 | (319588) |
| 4 | 12/10/2003 | (319591) |

5	12/10/2003	(319594)
6	12/10/2003	(319596)
7	12/10/2003	(319598)
8	12/10/2003	(319600)
9	12/10/2003	(319601)
10	12/10/2003	(319603)
11	12/10/2003	(319604)
12	12/10/2003	(319606)
13	12/10/2003	(319607)
14	12/10/2003	(319608)
15	12/10/2003	(319609)
16	12/10/2003	(319610)
17	12/18/2003	(256075)
18	01/07/2004	(319611)
19	02/10/2004	(319587)
20	03/08/2004	(319590)
21	04/13/2004	(319592)
22	05/11/2004	(362455)
23	06/09/2004	(362456)
24	07/15/2004	(362457)
25	08/18/2004	(362458)
26	09/09/2004	(285801)
27	09/17/2004	(362459)
28	10/08/2004	(362460)
29	11/15/2004	(387726)
30	12/06/2004	(387727)
31	01/12/2005	(387728)
32	03/22/2005	(387725)
33	04/19/2005	(425410)
34	05/20/2005	(425411)
35	06/17/2005	(425412)
36	07/21/2005	(425413)
37	08/22/2005	(445983)
38	09/13/2005	(445984)
39	10/12/2005	(478051)
40	11/22/2005	(478052)
41	12/27/2005	(478053)
42	01/19/2006	(478054)
43	02/10/2006	(478049)
44	03/10/2006	(478050)
45	04/14/2006	(504419)
46	05/19/2006	(504420)
47	06/21/2006	(504421)
48	07/20/2006	(526742)
49	07/27/2006	(480871)
50	08/21/2006	(526743)
51	10/19/2006	(550797)
52	11/20/2006	(550798)
53	12/14/2006	(550799)
54	01/22/2007	(587178)
55	02/13/2007	(587174)
56	03/07/2007	(543177)
57	03/08/2007	(587175)
58	04/16/2007	(587176)
59	06/06/2007	(587177)
60	07/23/2007	(604935)
61	09/20/2007	(604936)
62	10/23/2007	(626491)
63	11/15/2007	(626492)
64	12/20/2007	(626493)
65	01/04/2008	(601101)
66	03/03/2008	(617719)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 12/18/2003 (256075)

Self Report? NO

Classification Moderate

Rqmt Prov: PERMIT 02670-000 Page 2, No. 1

Description: Failure to submit the required Discharge Monitoring Reports (DMRs).

Self Report? NO

Classification Moderate

Rqmt Prov: PERMIT 02670-000 Page 7, No. 1
 Description: Failure to accurately complete the monthly discharge monitoring reports (DMR) for September through February, June, July, September, and October of 2003.

Self Report? NO Classification Moderate
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(c)
 Description: Failure to accurately report the daily maximum oil and grease concentrations for the months of November, 2002 and January, June, and October of 2003. Also, the daily maximum oil and grease concentration was not reported for July, 2003.

Self Report? NO Classification Moderate
 Rqmt Prov: PERMIT 02670-000 Page 5, No. 7c
 Description: Failure to provide notification of a permitted effluent violation and to properly note the violation on the monthly DMR.

Date: 03/31/2005 (425410)
 Self Report? YES Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 07/26/2006 (480871)
 Self Report? NO Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT 02670-000
 Description: Failure to maintain compliance with the permitted effluent limits for Total Suspended Solids (TSS) and Oil and Grease (O&G).

Date: 09/30/2006 (550797)
 Self Report? YES Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2006 (587178)
 Self Report? YES Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2007 (626491)
 Self Report? YES Classification Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2007 (626492)
 Self Report? YES Classification Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

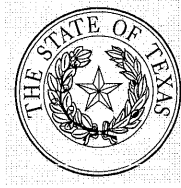
J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
OXBOW CARBON & MINERALS LLC
RN102707049**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-0468-IWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Oxbow Carbon & Minerals LLC ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility at Loop 197 South, approximately 500 feet west of the Dock 40-41 Complex in Texas City, Galveston County, Texas (the "Facility").
2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 5, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Four Thousand Thirty Dollars (\$4,030) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Six Hundred Twelve Dollars (\$1,612) of the administrative penalty and Eight Hundred Six Dollars (\$806) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount

will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. One Thousand Six Hundred Twelve Dollars (\$1,612) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By November 30, 2007, in order to reduce the ability of solids to reach the ponds and outfall, turbidity screens were replaced at the ponds and additional weirs were added to the ditches;
 - b. By December 17, 2007, began using Commission approved discharge monitoring report ("DMR") forms, which included a parameter for flow daily averages, and submitted revised DMRs for the months in violation; and
 - c. Submitted DMRs for November and December 2007 and January 2008, which demonstrated that effluent parameters were within permitted limits.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to comply with the permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002670000, Effluent Limitations and Monitoring Requirements No.1 and TEX. WATER

CODE § 26.121(a), as documented during a record review conducted on February 7, 2008 and as shown in the following table:

EFFLUENT VIOLATION TABLE		
Months	TSS daily avg. conc. Limit = 60 mg/L	TSS daily max. conc. Limit = 90 mg/L
December 2006	64 mg/L	100 mg/L
September 2007	78 mg/L	188 mg/L
October 2007	102 mg/L	140 mg/L
avg. = average conc. = concentration TSS = total suspended solids		
max. = maximum mg/L = milligrams per liter		

2. Failed to submit daily average flow at Outfall 001 on the DMRs for the months of November 2006 through April 2007 and June 2007 through October 31, 2007, in violation of 30 TEX. ADMIN. CODE § 305.125(17), TPDES Permit No. WQ0002670000, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on February 7, 2008.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Oxbow Carbon & Minerals LLC, Docket No. 2008-0468-IWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, One Thousand Six Hundred Twelve Dollars (\$1,612) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The

- Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
 4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
 6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
 7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
 8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

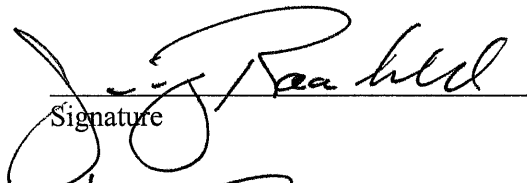
7/21/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature
Jimmy Roach

Name (Printed or typed)
Authorized Representative of
Oxbow Carbon & Minerals LLC

13 MAY 2008
Date

Facility Mgr
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

18 May 1900

Frank W. H.

James H. H.
18 May 1900

Attachment A
Docket Number: 2008-0468-IWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Oxbow Carbon & Minerals LLC
Payable Penalty Amount:	Three Thousand Two Hundred Twenty-Four Dollars (\$3,224)
SEP Amount:	One Thousand Six Hundred Twelve Dollars (\$1,612)
Type of SEP:	Pre-approved
Third-Party Recipient:	Gulf Coast Waste Disposal Authority ("GCWDA")-River, Lakes, Bays 'N Bayous Trash Bash
Location of SEP:	Galveston County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to Gulf Coast Waste Disposal Authority ("GCWDA") for its River, Lakes, Bays 'N Bayous Trash Bash in Galveston County. The contribution will be used in accordance with the Supplemental Environmental Project Agreement between the GCWDA and the Texas Commission on Environmental Quality. Specifically, the contribution will be used to pay for materials, supplies, disposal costs, and transportation costs directly associated with the cleanup of trash and pollutants from the Galveston Bay and the San Jacinto watershed.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by removing pollutants from the Galveston Bay and waterways in the San Jacinto watershed, which will improve water quality. The project will also help educate volunteers about non-point source pollution and what the volunteers can do to help keep the environment clean.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Lori Gernhardt
Gulf Coast Waste Disposal Authority
910 Bay Area Boulevard
Houston, Texas 77058

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

